

**NOTICE OF PROBABLE VIOLATION  
PROPOSED CIVIL PENALTY  
and  
PROPOSED COMPLIANCE ORDER**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

December 9, 2019

Kimberly S. Greene  
Chairman and CEO  
Southern Company Gas  
10 Peachtree Place  
Atlanta, Georgia 30309

**CPF 4-2019-1012**

Dear Ms. Greene:

From January 7 through June 22, 2019, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected the facilities of your subsidiary, Golden Triangle Storage Inc., in Orange, Texas.

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. **§ 192.614 Damage prevention program.**

**(a) Except as provided in paragraphs (d) and (e) of this section, each operator of a buried pipeline must carry out, in accordance with this section a written program to prevent damage to that pipeline from excavation activities. For the purpose of this section, the term “excavation activities” includes excavation, blasting, boring, tunneling, backfilling, the removal of aboveground structures by either explosive or mechanical means, and other earth moving operations.**

**(c) The damage prevention program required by paragraph (a) of this section must, at a minimum:**

**(4) If the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings.**

Golden Triangle Storage, Inc. (GTS) failed to follow three provisions of its written Damage Prevention Plan (DPP). GTS failed to follow section 3.3.1(D) of the DPP, which requires the GTS mark its pipeline within two working days (48 hours) after receiving a pipeline locate request. GTS’s received two pipeline locate tickets, numberd 1882417960 and 1882418774, on November 20, 2018, for work intended to commence on November 26, 2018. GTS was required by its procedures to mark its pipeline no later than November 22, however, GTS did not mark its pipeline until November 27, 2018.

GTS failed to follow sections 3.15.5(6) and 3.2.2 (c) of its written DPP by failing to provide a positive response on the status of requested pipeline locate tickets. Ticket numbers 1885505008, 1880846697, 1880846658, and 1950152951 do not show or indicate that any positive response on the status of pipeline locate requests were sent to either the One Call Center or the party requesting the marking of the pipelines in the area of the planned excavation activity.

GTS also failed to follow its written DPP section 3.2.2 (e) which requires that appropriate records be maintained if a notice is requested and completed. All the records provided during the PHMSA inspection were incomplete, with missing dates when they were marked/cleared, descriptions of what activities were carried out to close the tickets, and no indication of whether any positive responses were sent.

2. **§ 192.616 Public Awareness**

**(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.**

GTS failed to follow the general program recommendations of API RP 1162 as required by § 192.616(c) by failing to conduct a program effectiveness evaluation incorporated into

GTS's Public Awareness Plan (PAP). Section 2.5 GTS's PAP requires that the effectiveness review found in Section 8 of API RP 1162 be carried out every 4 years. At the time of the inspection, GTS had conducted an effectiveness review in June 18, 2014, and the subsequent effectiveness review was completed on July 10, 2019. GTS therefore conducted the review 13 months beyond the four year interval prescribed in its written procedures.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved for the above probable violations and has recommended that you be preliminarily assessed a civil penalty of \$19,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$19,000

Proposed Compliance Order

With respect to Item 1, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to GTS. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement Proceedings*. Please refer to this document and note the response options. All material submit in response to this enforcement action may be made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you

submit your correspondence to my office within 30 days from the receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 4-2019-1012** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary L. McDaniel, P.E.  
Director, Southwest Region  
Pipeline and Hazardous Materials Safety Administration

cc: Stephen L. Wassel, P.E., Vice President Storage and Peaking Operations, Golden Triangle Storage, Inc., 10 Peachtree Place, Atlanta, Georgia 30309

Enclosure: *Response Options for Pipeline Operators in Enforcement Proceedings*

## **PROPOSED COMPLIANCE ORDER**

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Golden Triangle Storage, Inc. (GTS) a Compliance Order incorporating the following remedial requirements to ensure the compliance of GTS with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to maintaining appropriate records when a notice of excavation is given or received, GTS must retrain its personnel on the records maintenance requirement as contained in section 3.2.2 of the written Damage Prevention Plan within 90 days of the issuance of the Final Order and provide copies of the training records to the Southwest Region.
2. It is requested (not mandated) that GTS maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary. L. McDaniel, Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.